

Docket No.: COS97101

53

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): BARRY et al.

Confirmation No.: 5202

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Serial No.: 09/159,503

Art Unit: 3621

JUL 22 2005

Filed: September 24, 1998

Examiner: H. Sough

Title: Integrated Business System For Web Based Telecommunications Management

RENEWED PETITIONS UNDER 37 C.F.R. § 1.47 AND 1.48(a)Commissioner of Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Decision dismissing Applicants' Petitions of July 29, 2004, Applicants hereby request reconsideration of the both Petitions.

Petition Under 37 CFR 1.47

Subsequent to Applicants original filing of the Petitions on July 29, 2004, Inventor DeRose was contacted and has now executed a Declaration which includes the addition of Inventor Devine (the subject of the Petition under 37 CFR 1.48(a)). The executed Declaration is attached herewith.

Since the Petitions Examiner stated "[t]here is no issue concerning the package forwarded to Ms. Levy", and Applicants now have an executed Declaration by Inventor DeRose, it is believed that the Petition Under 37 CFR 1.47 should be granted.

Petition Under 37 CFR 1.48

The Petitions Examiner states that "because the proof submitted is insufficient to accord status under 37 CFR 1.47(a), the petition under 37 CFR 1.48 is also deficient." Applicants believe that the Petition under 37 CFR 1.47 will be granted, and believe, in turn, that the Petition Under 37 CFR 1.48 should now be granted as well.

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Summary

It is believe that both Petitions are now in a condition to be granted and Applicants request a Decision stating as such. Should the Petitions still be found lacking, Applicants request that the Petitions Examiner contact the undersigned.

No fees are believed due in connection with the filing of this paper. However, should the Commissioner deem that fees are due, Applicants hereby authorized the fees to be charged to Deposit Account No. 13-2491.

Respectfully submitted,

Date:

5/16/05
Eden U. Stright
Reg. No. 51,205

WorldCom, Inc.
1133 19th Street NW
Washington, DC 20036
Tel: (202) 736-6008
Fax: (202) 736-6382

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2005
UNITED STATES PATENT AND TRADEMARK OFFICECommissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 53

MCI, INC
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW, 10TH FLOOR
WASHINGTON DC 20036

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MAY 05 2005

OFFICE OF PETITIONS

In re Application of
B. Reilly Barry et al.
Application No. 09/159,503
Filed: September 24, 1998
Attorney Docket No. COS-97-101**DOCKETED**

Due Date:

7/5/2005

ON PETITION

This is a decision on the petition filed July 29, 2004, under 37 CFR § 1.48 and 37 CFR § 1.47. The petition seeks to correct the inventorship of the above-identified application and accord status under 37 CFR 1.47 in the absence of the signatures of all the named inventors.

The petition under 37 CFR § 1.48 is **DISMISSED**.
The petition under 37 CFR § 1.47 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. FAILURE TO TIMELY RENEW THE PETITION WILL RESULT IN ABANDONMENT. The reconsideration request should include a cover letter entitled "Renewed Petitions under 37 CFR §§ 1.48 and 1.47.

The application was filed naming B. Reilly Barry, Mark A. Chodoronek, Eric DeRose, Mark N. Gozales, Angela R. James, Lynne Levy and Michael Tusa as joint inventors. It was later learned that Carol Y. Devine was also a co-inventor and petitioner seeks under 37 CFR § 1.48(a) to amend the inventive entity by the addition of Carol Y. Devine. 37 CFR § 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

- (1) a petition including a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;
- (2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;
- (3) the fee set forth in 37 CFR 1.17 (I); and
- (4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

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Petitioners have submitted a statement of lack of deceptive intent executed by Ms. Devine and an assent of assignee to correction and/or addition of inventor, however, the supplemental oath or declaration has not been executed by joint inventors DeRose and Levy. Petitioners argue that joint inventors DeRose and Levy "appear either unwilling or unable to cooperate with the furthering prosecution of the above-identified application". In lieu of a declaration executed by joint inventors DeRose and Levy, petitioners seek status under 37 CFR § 1.47(a).

A grantable petition under 37 CFR § 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

As to the requirements of 37 CFR § 1.47(a), the petition fails for lack of compliance with item (1) and thus, the petition under 37 CFR § 1.487(a) fails for lack of compliance with item (2).

Petitioners claim that a copy of the application was sent via FEDEX to Mr. DeRose on March 2, 2004. It appears that Mr. DeRose no longer lives at the last known address and as such, the package containing the application was returned as undeliverable. There is no issue concerning the package forwarded to Ms. Levy as it shown that the package was mailed to the last known address and undeliverable. It is assumed that with respect to Ms. Levy, that the address was correct but that the delivery of the package was just refused. If this is incorrect, petitioner should apprise the Office of the facts surrounding the package to Ms. Levy immediately.

The evidence presented however, is not sufficient to show that Mr. DeRose either cannot be located or that he refuses to cooperate with the filing of the application. The proof submitted does not show that diligent efforts have been employed to forward a complete copy of the application papers to Mr. DeRose and in the absence of that, it hasn't been shown that he is refusing to cooperate.

If petitioners are satisfied that Mr. DeRose no longer lives at the last known address and would like to argue that he cannot be located, petitioners must present a showing that diligent efforts have been made to locate him.¹ Petitioners must however provide details, in an affidavit or declaration of facts by a person with first hand knowledge of

¹MPEP 409.03(d).

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the details, of the additional efforts to locate Mr. DeRose such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him. If repeated attempts to contact Mr. DeRose by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that he cannot be found despite diligent efforts. If an address for the non-signing inventor is located, petitioner will want to show proof that a copy of the application was sent or given to the non-signing inventors for review by providing a copy of the cover letter transmitting the application papers to the non-signing inventors or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Likewise, before a *bona fide* refusal can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Because the proof submitted is insufficient to accord status under 37 CFR § 1.47(a), the petition under 37 CFR § 1.48 is also deficient.

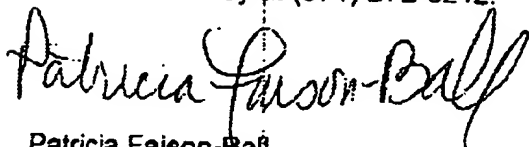
The petition fee for the petition under 37 CFR § 1.47(a) was charged to the deposit account upon filing. Additionally, a fee in the amount of \$130.00 has also been charged to deposit account no. 13-2491 as authorized in the petition for the petition under 37 CFR § 1.48.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306
 Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Docket No.: COS97101

**DECLARATION AND POWER OF ATTORNEY
FOR UTILITY PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, mailing address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Integrated Business System for Web Based Telecommunication Management

the specification of which

☐ is attached hereto

☒ was filed on September 24, 1998 as United States Application Number 09/159,503, and was amended on January 24, 2001, March 4, 2002, and October 21, 2002.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national application or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. § 119 (a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

Priority Claimed

(number)

(country)

(date filed)

yes no

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below.

60/060,655

(Application Number(s))

October 1, 1997

(Filing Date)

I hereby appoint practitioners at Customer No. 25537 which include: Steven McCann, Reg. No. 34,958; Paul A. Roberts, Reg. No. 40,289; Sureah Koshy, Reg. No. 42,761; Stephen A. Zemaruck, Reg. 48,724; David J. O'Neill, Reg. 42,953; and Michael A. Wrenn, Reg. No. 42,237, as attorneys; and, Frank A. McKiel, Reg. No. 43,792, and Eden U.I. Stright, Reg. No. 51,205, as patent agents with full power of substitution and revocation, to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith, of whom I acknowledge as legal representatives of the Assignee acting on the Assignee's behalf.

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Docket No.: COS97101

Send correspondence to:
Customer Number: 25537WORLDICOM, Inc.
Technology Law Department
1133 19th ST, NW
WASHINGTON, DC 20036Direct Telephone Calls To:
(202) 736-6604

I hereby declare that all statements made herein of my knowledge are true and that all statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of First Inventor: B. Reilly Barry
Residence Address: 310 Cliff Falls Court, Colorado Springs, CO 80920
Mailing Address: 310 Cliff Falls Court, Colorado Springs, CO 80920
Citizenship: USA

Signature: _____ Date: _____

Full name of Additional Joint Inventor: Mark A. Chodoronek
Residence Address: 6508 Trillium House Lane, Centerville, VA 20120
Mailing Address: 6508 Trillium House Lane, Centerville, VA 20120
Citizenship: USA

Signature: _____ Date: _____

Full name of Additional Joint Inventor: Eric DeRose
Residence Address: 3151 Anchorway Court #11, Falls Church, VA 22042
Mailing Address: ~~3451 Anchorway Court #11, Falls Church, VA 22042~~
Citizenship: USA 4142 LENOX DRIVE, FAIRFAX, VA 22032

Signature: Eric DeRose Date: 05/12/05

Full name of Additional Joint Inventor: Carol V. Devine
Residence Address: 395 Palm Springs Drive, Colorado Springs, CO 80921
Mailing Address: 395 Palm Springs Drive, Colorado Springs, CO 80921
Citizenship: USA

Signature: _____ Date: _____

Full name of Additional Joint Inventor: Mark N. Gonzales
Residence Address: 9158 Pristine Court, Manassas, VA 20110
Mailing Address: 9158 Pristine Court, Manassas, VA 20110
Citizenship: USA

Signature: _____ Date: _____

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Docket No.: COS97101

Full name of Additional Joint Inventor: Angela R. James
Residence Address: 7004 Florida Street, Chevy Chase, MD 20815
Mailing Address: 7004 Florida Street, Chevy Chase, MD 20815
Citizenship: USA

Signature: _____ Date: _____

Full name of Additional Joint Inventor: Lynne Levy
Residence Address: 2514 Iron Forge Road, Herndon, VA 20171
Mailing Address: 2514 Iron Forge Road, Herndon, VA 20171
Citizenship: USA

Signature: _____ Date: _____

Full name of Additional Joint Inventor: Michael Tusa
Residence Address: 12 Mulberry Street, Ridgefield, CT 06877
Mailing Address: 12 Mulberry Street, Ridgefield, CT 06877
Citizenship: USA

Signature: _____ Date: _____

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Docket No.: COS97101

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): BARRY et al.

Confirmation No.: 5202

Serial No.: 09/159,303

Art Unit: 3621

Filed: September 24, 1998

Examiner: H. Sough

Title: Integrated Business System For Web Based Telecommunications Management

**RECEIVED
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PO Box 1450
Alexandria, VA 22313-1450

Sir:

Please advise us in writing as to the status of the above-noted application. Applicants filed a Renewed Petition Under 1.47 and 1.48 on May 16, 2005, in response to the Decision mailed May 5, 2005, dismissing the originally filed Petition, but have not yet received any decision. No record of the Petition has been entered into the Patent Application Information Retrieval System (PAIR). Applicants further request that a decision on the Renewed Petition be issued promptly as the application is currently after issue fee payment and delay in a decision delays any issuance of a patent. Applicants are attaching a copy of the Renewed Petition and supporting documents herewith for the Office's convenience.

Should any further information be required, please contact the undersigned.

Respectfully submitted,

Date:

7/22/05
Egon U. Sough
Registration No. 31,205MCI, Inc.
1133 19th Street, NW
Washington, DC 20036
Phone: 202 736-6008
Fax: 202-736-6382**BEST AVAILABLE COPY**

TRANSMISSION REPORT

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Docket No. COS97101

PTO/RS/97 (05-04)

Approved for use through 07/31/2006, OMB 0651-0031

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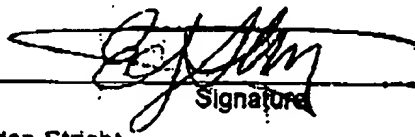
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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office

May 16, 2005

on

Date



Signature

Eden Stright

Typed or printed name of person signing Certificate

51.203

202.736.6008

Registration Number, if applicable

Telephone Number

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

1. Renewed Petitions Under 37 CFR 1.47 and 1.48(a) (2 pages);
2. Declaration executed by Inventor DeRose (3 pages); and
3. Copy of Decision dismissing the Petitions filed July 24, 2004.

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Docket No. COS97101

PTO/SB/97 (09-04)

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May 16, 2005
on _____
Date



Signature

Eden Stright

Typed or printed name of person signing Certificate

51,205

202.736.6008

Registration Number, if applicable

Telephone Number

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

1. Renewed Petitions Under 37 CFR 1.47 and 1.48(a) (2 pages);
2. Declaration executed by Inventor DeRose (3 pages); and
3. Copy of Decision dismissing the Petitions filed July 24, 2004.

This collection of information is required by 37 CFR 1.8. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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